

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

RODNEY EUGENE BLACK,

Plaintiff,

v.

Case No. 3:16-cv-1187-JPG-DGW

CHARLES PAULIUS and the UNITED  
STATES OF AMERICA,

Defendants.

**MEMORANDUM AND ORDER**

This matter comes before the Court on the Report and Recommendation (“Report”) (Doc. 37) of Magistrate Judge Donald G. Wilkerson with regard to the United States of America’s Motion to Dismiss or for Summary Judgment Based on Plaintiff’s Failure to Exhaust Administrative Remedies. (Doc. 22.) The motion was initially filed on behalf of defendant Kevin Kays, but since the Court has recently substituted the United States as a defendant here for Kays (Doc. 36), the Court considers the motion to have been filed by the United States.

The Court may accept, reject, or modify—in whole or in part—the findings or recommendations of the magistrate judge in a report and recommendation. FED. R. CIV. P. 72(b)(3). The Court must review *de novo* the portions of the report to which objections are made. *Id.* “If no objection or only partial objection is made, the district court judge reviews those unobjected portions for clear error.” *Johnson v. Zema Sys. Corp.*, 170 F.3d 734, 739 (7th Cir. 1999).

The Court has received no objection to the Report. The Court has reviewed the entire file and finds that the Report is not clearly erroneous. Accordingly, the Court hereby:

- **ADOPTS** the Report in its entirety (Doc. 37);

- **GRANTS** the United States of America's Motion to Dismiss or for Summary Judgment Based on Plaintiff's Failure to Exhaust Administrative Remedies (Doc. 22);
- **FINDS** that Plaintiff did not exhaust the administrative remedy process required by 28 U.S.C. § 2675(a) prior to filing suit against Defendant United States of America; and
- **DISMISSES WITHOUT PREJUDICE** Defendant United States of America.

**IT IS SO ORDERED.**

**DATED: October 10, 2017**

*s/ J. Phil Gilbert*  
**J. PHIL GILBERT**  
**DISTRICT JUDGE**